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*Attorney for Defendant  
HealthMarkets Insurance Agency, Inc.*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

RICHARD M. ZELMA,

Plaintiff,

HEALTH MARKETS LLC; a/k/a  
HEALTH MARKETS INSURANCE  
AGENCY, INC. a/k/a, d/b/a  
INSPIRE INSURANCE  
SOLUTIONS, INC.; and DARON  
ROBERTSON; and BROADPATH  
INC., n/k/a BROADPATH, LLC, a/k/a  
BROADPATH HEALTH CARE,

Defendants.

Civil Action No. 21-cv-771

**NOTICE OF REMOVAL**

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY:

PLEASE TAKE NOTICE THAT Defendant HealthMarkets Insurance Agency, Inc. (“HealthMarkets”), by its attorneys, and pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, with full reservation of all defenses, hereby removes this action from the Superior Court of New Jersey, Bergen County, Law Division, to the United States District Court for the District of New Jersey. The basis for removal is as follows:

1. On December 14, 2020, Plaintiff Richard Zelma, representing himself *pro se*, filed a complaint in the action styled *Richard M. Zelma v. Health Markets LLC; a/k/a Health Markets Insurance Agency, Inc. a/k/a, d/b/a Insphere Insurance Solutions, Inc.; and Daron Robertson; and BroadPath Inc., n/k/a BroadPath, LLC, a/k/a BroadPath Health Care*,<sup>1</sup> in the Superior Court of New Jersey, Bergen County, Law Division, Docket No. L-007690-20 (the “Action”). Pursuant to 28 U.S.C. § 1446(a) and Local Rule 5.1(e), true and correct copies of all process, pleadings, and orders served upon HealthMarkets in the Action are attached to this Notice as Exhibit A.

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<sup>1</sup> Plaintiff identifies HealthMarkets LLC and Insphere Insurance Solutions, Inc. as alternative names for HealthMarkets Insurance Agency, Inc. HealthMarkets LLC and Insphere Insurance Solutions, Inc. are not appropriate defendants in this Action and have not been served.

2. HealthMarkets was served with a copy of the Summons and Complaint in the Action on December 18, 2020.

3. This Court has original jurisdiction over this Action pursuant to 28 U.S.C. §§ 1331 and 1367, which may be removed pursuant to the provisions of 28 U.S.C. §§ 1441(a) and (c), as Plaintiff brings claims under the laws of the United States and laws for which this Court may exercise supplemental jurisdiction.

4. Plaintiff's claims arise out of telephone calls allegedly made to him by HealthMarkets and BroadPath, Inc. (collectively "Defendants"). Plaintiff purports to allege causes of action against Defendants under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §§ 227, *et seq.*, 47 C.F.R. 1601(e), and the New Jersey Consumer Fraud Act ("NJCFRA"), N.J.S.A. 56:8-119, *et seq.*

### **FEDERAL QUESTION JURISDICTION**

5. This Court has federal question jurisdiction over the entire Action under 28 U.S.C. §§ 1441(a) and (c), which provide for removal of any civil action for which district courts have original jurisdiction, and allow removal of an entire case even when removable claims are joined with non-removable claims.

6. District courts have original subject matter jurisdiction over all civil actions arising under the laws of the United States, 28 U.S.C. § 1331, including claims brought under the TCPA. *Mims v. Arrow Fin. Servs., Inc.*, 132 S. Ct. 740, 747 (2012) ("Congress did not deprive federal courts of federal-question jurisdiction

over private TCPA suits.”). As the Supreme Court stated in *Mims*, “[b]ecause federal law creates the right of action and provides the rules of decision, [plaintiff]’s TCPA claim, in 28 U.S.C. § 1331’s words, plainly ‘aris[es] under’ the ‘laws of the United States.’” *Id.* at 749. *See e.g., Zelma v. Alpha Gas & Elec., LLC*, No. CIV.A. 14-4330 CCC-J, 2014 WL 5160659, at \*2 (D.N.J. Oct. 10, 2014) (denying motion for remand in another case brought under the TCPA by Plaintiff Richard Zelma).

7. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff’s state law claims. To the extent Plaintiff also asserts a claim purporting to arise under the laws of the State of New Jersey, these claims are so related to Plaintiff’s federal claims for violations of the TCPA that they form part of the same case or controversy under Article III of the United States Constitution. *See* 28 U.S.C. § 1367(a). All of Plaintiff’s claims arise out of the same set of alleged calls by Defendants.

### **PROCEDURAL STATEMENT**

8. Removal to this Court is proper under 28 U.S.C. § 1441(a) because this district embraces the Superior Court of New Jersey, Bergen County, Law Division, where this action is pending.

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because the Summons and Complaint were served on HealthMarkets December 18, 2020, and this Notice is filed within thirty days.

10. Pursuant to 28 U.S.C. § 1446(b), all Defendants purportedly served as of the date of this Notice have consented to this removal.

11. Pursuant to 28 U.S.C. § 1446(d), HealthMarkets will promptly file a copy of this Notice of Removal in the Superior Court of New Jersey, Bergen County, Law Division, and give *pro se* Plaintiff written notice of the removal of this Action.

12. By filing this Notice of Removal, HealthMarkets does not admit to any liability to Plaintiff or anyone else, and does not waive any allegation, defense, argument, or principle of equity available to Defendants under state or federal law.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, HealthMarkets hereby removes the above described action now pending against HealthMarkets in the Superior Court of New Jersey, Bergen County, Law Division to the United States District Court for the District of New Jersey.

Dated: January 14, 2021

/s/ Mallik N. Yamusah  
Mallik N. Yamusah  
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*Attorneys for Defendant  
HealthMarkets Insurance Agency,  
Inc.*

*\*Pro hac vice applications are  
forthcoming*

**WRITTEN CONSENT OF OTHER  
DEFENDANTS:**

Consent to removal on behalf of  
Defendant, Daron Robertson.

/s/ Thomas Paschos

Thomas Paschos  
THOMAS PASCHOS &  
ASSOCIATES, P.C.  
30 North Haddon Avenue, Suite 200  
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Consent to removal on behalf of  
Defendant, BROADPATH INC.,  
n/k/a BROADPATH, LLC, a/k/a  
BROADPATH HEALTH CARE.

/s/ Thomas Paschos

Thomas Paschos

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**CERTIFICATE OF SERVICE**

I, Mallik N. Yamusah, hereby certify that, on January 15, 2021, I served via overnight mail a true and correct copy of the foregoing Notice of Removal, and all documents filed therewith, on Plaintiff Richard Zelma, who is representing himself *pro se*.

Richard M. Zelma  
940 Blanch Ave.  
Norwood, NJ 07648

/s/ Mallik N. Yamusah  
Mallik N. Yamusah